

Item No. 10/a.

TOWN OF LAUDERDALE-BY-THE-SEA

AGENDA ITEM REQUEST FORM

Development Services

Department Submitting Request

Dept Head's Signature 

<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>
<input type="checkbox"/> Nov 10, 2009	Oct. 30 (5:00 p.m.)	<input type="checkbox"/> Jan 26, 2010	Jan 15 (5:00 p.m.)	<input type="checkbox"/> March 23, 2010	Mar 12 (5:00 p.m.)
<input type="checkbox"/> Dec 1, 2009	Nov 20 (5:00 p.m.)	<input type="checkbox"/> Feb 9, 2010	Jan 29 (5:00 p.m.)	<input type="checkbox"/> April 13, 2010	April 2 (5:00p.m.)
<input type="checkbox"/> Dec 8, 2009	Nov 25 (5:00 p.m.)	<input type="checkbox"/> Feb 23, 2010	Feb 12 (5:00 p.m.)	<input type="checkbox"/> April 27, 2010	April 16 (5:00p.m.)
<input checked="" type="checkbox"/> Jan 12, 2010	Dec 31 (5:00 p.m.)	<input type="checkbox"/> Mar 9, 2010	Feb 26 (5:00p.m.)	<input type="checkbox"/> May 11, 2010	April 30 (5:00p.m.)

NATURE OF AGENDA ITEM

- | | | |
|---|---|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Resolution | <input type="checkbox"/> New Business |
| <input type="checkbox"/> Report | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Manager's Report |
| <input type="checkbox"/> Consent Agenda | <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Attorney's Report |
| <input type="checkbox"/> Bids | <input type="checkbox"/> Old Business | <input type="checkbox"/> Other |

EXPLANATION: First Reading. Commission to consider approval of Ordinance 2009-36
Board of Adjustments recommendation is within the draft minutes attached.

Town Attorney review required

☒ Yes ☐ NoTown Manager's Initials: CE

Town Commission Regular Meeting
October 20, 2009 continued from October 13, 2009

New Business

7e. Discussion and/or action to allow Theaters, Performing Arts Theaters, Cultural Arts Theaters, etc on Commercial Blvd (Mayor Minnet)

Attorney Trevarthen stated that this would be a land development regulation. She said a Notice of Intent would come before the Commission for reading of the Resolution and would then go to Planning and Zoning and back to the Commission. Attorney Trevarthen requested clarification as to whether theaters were being added to the B District or looking more comprehensively at the B Districts. Mayor Minnet stated she was just planning on the commercial areas.

Commissioner Dodd made a motion to approve moving forward. Commissioner Clotey seconded the motion. The motion carried 5-0.


Juan Bermudez said financing was in place and there were technical problems where the bank delayed payments. He added he recently passed the last 2 inspections and the last one would allow him to complete within 90 days.

The motion carried 5 - 0.

- e. Commission approval of the issuance of ten (10) parking permits for Broward County Association of Student Council Beach Clean-Up Broward, Saturday, November 21, 2009 8:00 AM till 2:00 PM, in the Bougainvillea Parking Lot (Assistant Town Manager Olinzock)
- f. Commission approval of amendment to Special Event Permit application for LBTS Chamber Christmas By-The-Sea Event providing for two Town employees, a Town truck and use of the Town dumpster from 6:00 PM till 10:00 PM, the day of the event (Assistant Town Manager Olinzock)

This item was pulled earlier in the evening by Mayor Minnet.

13. RESOLUTION - "Public Comments"

- 
- a. Resolution 2009-28: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING AMENDMENTS TO CHAPTER 30 OF THE CODE OF ORDINANCES.

Attorney Trevarthen read Resolution 2009-28 by title.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Mayor Minnet asked whether theaters would be part of the Resolution. Attorney Trevarthen said it was described as Community Theaters and Cultural Centers.

Commissioner Silverstone made a motion to adopt Resolution 2009-28. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

The agenda was moved out of order and Old Business item 15b was considered before Old Business item 15a.

- b. Discussion and/or action regarding draft Resolution 2009-23 concerning street names in Bel Air (Commissioner Clotney) Deferred at the September 10, 2009 Commission meeting by Commissioner Clotney Deferred at the September 22, 2009 Commission meeting by Vice Mayor McIntee

j. Town Commission Approval of Processing of Proposed Regulatory Changes
(Assistant Town Manager Olinzock)

Attorney Trevarthen explained this was for the public hearing on Resolution 2009-28 which had previously passed. She stated that Town Code required public comment on Resolution 2009-28 prior to proceeding with the proposed Ordinances to amend Chapter 30.

Mayor Minnet opened the meeting for public comments.

Yann Brandt suggested moving the item to the next agenda.

Barbara Cole agreed with Mr. Brandt.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd did not see the recommendation of the Planning and Zoning Board on November 18, 2010. Attorney Trevarthen stated that the time table had been adjusted to allow the current public hearing to occur. She added that the Planning and Zoning hearing would follow.

Commissioner Silverstone made a motion to approve. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

Commissioner Dodd referred to New Business item 16i regarding a new Town slogan. He believed there should be a date for the public to submit slogans to ensure closure.

Commissioner Silverstone agreed that a definite date should be selected in regards to collecting slogans. He made a motion to gather the slogans submitted and discuss them at the February 22, 2010 Commission meeting. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

17. TOWN ATTORNEY REPORT

There were no reports.

18. ADJOURNMENT

Vice Mayor McIntee made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 7:56 p.m.

19. FUTURE AGENDA ITEMS

Mayor Roseann Minnet

ATTEST:

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING AGENDA

Town Commission Meeting Room

Wednesday, December 16, 2009

6:30 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning Board – October 21, 2009

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request:

(A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"):

- **Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback. (Reference Proposed Ordinance 2009-35)**
- **Amendment to Section 30-261 (b) (1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theatres and cultural centers. (Reference Proposed Ordinance 2009-10)**
- **Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theatres and cultural centers. . (Reference Proposed Ordinance 2009-10)**

V. OLD BUSINESS

NONE

VI. UPDATES/BOARD MEMBER COMMENTS

VII. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AIDS AND SERVICES NECESSARY TO AFFORD AN INDIVIDUAL AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE PLANNING AND ZONING BOARD. IN DETERMINING WHAT TYPE OF AUXILIARY AID AND SERVICE IS NECESSARY, THE TOWN OF LAUDERDALE-BY-THE-SEA, WILL GIVE PRIMARY CONSIDERATION TO THE REQUESTS OF THE INDIVIDUAL WITH DISABILITIES. PLEASE CONTACT THE TOWN CLERK AT LEAST 48 HOURS PRIOR TO THE MEETING TO MAKE ARRANGEMENTS FOR APPROPRIATE AUXILIARY AIDS. (AUXILIARY AIDS AND SERVICES, 56 FED. REG. 35721, SECTION 36.160(B)).

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING AND ZONING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A



TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING & ZONING

AGENDA ITEM REQUEST FORM

TO: PLANNING & ZONING MEMBERS

Development Services

Department Submitting Request

[Signature]
Dept Head's Signature *[Signature]*

Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office	Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office	Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office
<input type="checkbox"/> July 15, 2009	June 5 (5:00 p.m.)	<input type="checkbox"/> Nov 18, 2009	Oct 5 (5:00 p.m.)	<input type="checkbox"/> Mar 17, 2010	Feb 5 (5:00 p.m.)
<input type="checkbox"/> Aug 19, 2009	July 6 (5:00 p.m.)	<input checked="" type="checkbox"/> Dec 16, 2009	Nov 6 (5:00 p.m.)	<input type="checkbox"/> April 21, 2010	Mar 5 (5:00 p.m.)
<input type="checkbox"/> Sept 16, 2009	Aug 3 (5:00 p.m.)	<input type="checkbox"/> Jan 20, 2010	Dec 4 (5:00 p.m.)	<input type="checkbox"/> May 18, 2010	April 2 (5:00 p.m.)
<input type="checkbox"/> Oct 21, 2009	Sept 4 (5:00 p.m.)	<input type="checkbox"/> Feb 17, 2009	Jan 4 (5:00 p.m.)	<input type="checkbox"/> June 16, 2010	May 3 (5:00 p.m.)

* Meeting Canceled

NATURE OF AGENDA ITEM

- ☐ Variance
- ☐ Site Plan
- ☒ Other: Proposed Code Amendments

SUBJECT: The Planning and Zoning Board to provide recommendation to the Town Commission to the proposed amendments to Chapter 30 "Unified Land Development Regulations" of the Town's Code of Ordinances.

Provide copies of approved item to:


- ☒ Administration
- ☒ Development Services
- ☒ Other (Town Attorney)

Town Engineer / Planner Review Required

☐ Yes ☒ No

Town Manager's Initials: *[Signature]*

INTEROFFICE MEMORANDUM

TO: PLANNING AND ZONING MEMBERS
FROM: JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR 
SUBJECT: PROPOSED AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT CODE
DATE: 12/8/2009

On September 10, 2009 the Town Commission approved moving forward with the attached proposed amendments to the Unified Land Development Code.

On October 27, 2009 the Town Commission passed a Resolution providing for the issuance of a Notice of Intent concerning pending amendments to Chapter 30 of the Towns Code of Ordinances.

As per Chapter 30 Section 531 (j) of the Towns Code of Ordinances, a copy of the Notice of Intent was provided to you.


On December 7, 2009 (Continued from November 10, 2009) the Public Hearing and Town Commission approval of processing of proposed regulatory changes passed.

The proposed amendments to the Land Development Code are attached for your review and recommendations. The changes are indicated as such:

- ~~Strike through~~ = Deleted
- Underlined = Added Text

The only text changes to the current code are those that have a strike-through or are underlined. If you have any questions please contact me.



Thank You.

 You replied on 11/3/2009 4:58 PM.

To help protect your privacy, links to images, sounds, or other external content in this message have been blocked. Click here to unblock content.

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

Jeff Bowman

From: James E. White [JWhite@wsh-law.com] **Sent:** Tue 11/3/2009 2:28 PM
To: Jeff Bowman
Cc: John Olinzock; Susan L. Trevarthen
Subject: RE Draft Ordinances for Nov. 11 PZ Board Meeting
Attachments:  B1A and B1 Permitted Use List Ordinance.doc(57KB)  Revised Corner Lot.doc(59KB)

Jeff,

Please find attached the following draft Ordinances for your review and comment. These are the items that have been included in the recently issued NOI and the Commission will be taking public comment at the November 10th meeting. Additionally, these items are scheduled to move forward on the Nov. 11th PZ Board agenda.

Please note that pursuant to our earlier conversation, we have removed the proposed amendments to Section 30-211 within the "Corner Lot" Ordinance as those changes were previously addressed in the last Chapter 30 Ordinance amendments.

If you have any questions or concerns please let me know. Susan can simply announce at the November 10th Commission meeting that we will not be making changes to Section 30-211 as originally indicated on the NOI.

Thanks

James E. White, Esq., AICP

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
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 Fort Lauderdale, FL 33301
www.wsh-law.com
 Tel: (954) 763-4242
 Fax: (954) 764-7770



Think before you print

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27 notice of intent, and by majority vote shall either approve or disapprove the further
28 processing of the proposed land development regulations; and

29 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION**
30 **OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**
31

32 **SECTION 1.** That, pursuant to Section 30-531 of the Code of Ordinances, the
33 Town Commission authorizes the investigation, study, development, drafting and
34 consideration of the proposed amendments to Chapter 30, as described in the Notice of
35 Intent of Pending Land Development Regulations attached hereto as Exhibit "A."

36 **SECTION 2.** That the Town Commission hereby finds that the effective date of
37 the Notice of Intent of Pending Land Development Regulations shall be October 27,
38 2009.

39 **SECTION 3.** That the Town Commission shall hold a public hearing
40 concerning the Notice of Intent of Pending Land Development Regulations on November
41 10, 2009, and approve or disapprove of the further processing of the proposed
42 regulations.

43 **SECTION 4.** That this Resolution shall become effective immediately upon
44 passage and adoption.

45 **PASSED AND ADOPTED** this 27th of October, 2009

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49 **ATTEST:**

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June White
June White, Town Clerk

Approved as to form:

Susan L. Trevarthen
Susan Trevarthen, Town Attorney

Roseann Minnet
MAYOR ROSEANN MINNET

Exhibit "A"

Notice of Intent of Pending Land Development Regulations
Effective October 27, 2009

1. Statement of Purpose: In accordance with Section 30-531 of the Code of Ordinances, the Town hereby issues this **Notice of Intent** to notify the public of proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"). Upon Town Commission approval of the further processing of the proposed regulations, the amendments will be included in an ordinance and scheduled for hearing and adoption.

2. Description of Proposed Amendments to Chapter 30 of the Code of Ordinances:

- a. Amendment to Section 30-211 of the Code to amend and clarify the building setback requirements in the RS-5 residential zoning district;
- b. Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback.
- c. Amendment to Section 30-261(b)(1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theaters and cultural centers.
- d. Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theaters and cultural centers.

3. Projected Time Frame for Adoption of Regulations:

- a. Public Hearing and Town Commission Approval of Processing of Proposed Regulatory Changes: November 10, 2009
- b. Planning and Zoning Board Hearing on Ordinance: November 18, 2009
- c. First Reading of Ordinance By Town Commission: December 1, 2009
- d. Second Reading of Ordinance By Town Commission: January 12, 2010

4. Application of Pending Regulations:

The proposed regulations shall become effective and applicable to development within the Town following second reading and adoption by ordinance.

ORDINANCE 2009-36

1 AN ORDINANCE OF THE TOWN OF
2 LAUDERDALE-BY THE SEA, FLORIDA,
3 AMENDING CHAPTER 30 "UNIFIED LAND
4 DEVELOPMENT REGULATIONS," ARTICLE V
5 "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-
6 261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO
7 PROVIDE THAT COMMUNITY THEATRES AND
8 CULTURAL CENTERS ARE PERMITTED USES IN
9 THE B-1-A DISTRICT; FURTHER AMENDING
10 SECTION 30-271 "B-1 DISTRICT-BUSINESS" IN
11 ORDER TO PROVIDE THAT COMMUNITY
12 THEATRES AND CULTURAL CENTERS ARE
13 PERMITTED USES IN THE B-1 DISTRICT;
14 PROVIDING FOR SEVERABILITY; PROVIDING
15 FOR CODIFICATION; AND PROVIDING FOR AN
16 EFFECTIVE DATE.

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19 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code
20 of Ordinances are periodically necessary in order to ensure that the Town's land
21 development regulations are current and consistent with the Town's planning and
22 regulatory needs; and

23 **WHEREAS**, the Town Commission has determined that it is in the best interest of
24 the Town to amend Section 30-261 of the Code of Ordinances to provide that community
25 theaters and cultural centers shall be permitted uses within the B-1-A Business district; and

26 **WHEREAS**, the Town Commission has determined that it is in the best interest of
27 the Town to amend Section 30-271 of the Code of Ordinances to provide that community
28 theaters and cultural centers shall be permitted uses within the B-1 Business district; and

29 **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning
30 Agency, has reviewed this Ordinance at a duly noticed hearing on November 11, 2009,
31 and recommended its approval; and

ORDINANCE 2009-36

WHEREAS, the Town Commission has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with the City's comprehensive plan; and

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

SECTION 2. Amending Article V "Zoning," Division 2 "Districts," Section 30-261 "B-1-A district--Business," to read as follows:

Sec. 30-261. B-1-A district--Business.

* * * * *

(b)B-1-A uses permitted:

(1) Use. No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses; office building, drug-store, restaurant, including sidewalk cafés which would be appurtenant to, and a part of, a restaurant, market, sundries, bakery, specialty shop, giftware, clothing, furniture, radio repair and sales, electric supply, cooking schools, catering, motorized scooter or moped sales and rentals,

ORDINANCE 2009-36

shoe sales and repair, beauty schools and hair salons; and community theaters and cultural centers; construction shall be limited to one building on B-1-A lots 50 feet or less in width. Restaurant for the purposes of this subdivision, is any establishment where facilities are provided for preparing and serving food to the public.

* * * * *

SECTION 3. Amending Article V “Zoning,” Division 2 “Districts,” Section 30-

271“B-1 district--Business,” to read as follows:

Sec. 30-271. B-1 district--Business.

(a) *Use.*

No building or premises shall be used and no building with the usual accessories shall be erected or altered other than a building or premises arranged, intended, or designed for any of the following uses: office building, drug (store), restaurant, market, sundries, bakery, specialty shop, gift shop, coin-operated dry cleaning and laundry and/or pickup station, hardware, clothing, furniture, radio repair and sales, electric supply, cooking schools, catering businesses, motorized scooter sales or moped sales and rentals, shoe sales and repair, beauty schools and hair salons, fishing pier, bait and tackle shop, bicycle rental shop with no outside storage; ~~and~~ dental laboratory; and community theaters and cultural centers; construction shall be limited to one (1) on B-1-A lots 50 feet or less in width. Drive-through services that are accessory to a use in this zoning district shall be allowed only as a conditional use requiring Planning and Zoning Board review and Town Commission approval, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive through. "Restaurant," for the purposes of this subdivision, is any establishment where facilities are provided for preparing and serving food to the public in an enclosed building.

* * * * *

ORDINANCE 2009-36

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

SECTION 6. Codification. This Ordinance shall be codified.

SECTION 7. Adoption.

Passed on the first reading, this ____ day of _____, 2010

Passed on the second reading, this ____ day of _____, 2010

Mayor Roseann Minnet

First Reading

Second Reading

Mayor Minnet

Vice-Mayor McIntee

Commissioner Clotey

Commissioner Silverstone

Commissioner Dodd

Attest:

Town Clerk, June White

(CORPORATE SEAL)

Approved as to form:

Susan L. Trevarthen, Town Attorney

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, December 16, 2009

6:30 P.M.

I. CALL TO ORDER

Chairman Lawrence Wick called the meeting to order at 6:30 P.M. Members present were Chairman Lawrence Wick, Vice Chair Cristie Furth, Alfred Oldaker and Dennis Ritchie. Also present were, Development Services Director Jeff Bowman, Town Attorney James White and Board Secretary Cr... en Tyrrell was present to record the minutes of the meeting

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning Board – October 21, 2009

The minutes were approved as presented

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request:

(A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed change to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"):

- Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback. (Reference Proposed Ordinance 2009-35)
- Amendment to Section 30-261 (b) (1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theatres and cultural centers. (Reference Proposed Ordinance 2009-10)
- Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theatres and cultural centers. . (Reference Proposed Ordinance 2009-10)

Chairman Wick asked Town Attorney James White to present the first proposed Ordinance 2009-35. Attorney White said that the ordinance for consideration was an ordinance of the Town of Lauderdale-By-the-Sea, Florida amending Chapter 30 "Unified Land Development Regulations.; Article V "Zoning," Division 2 "Districts," Subdivision L "Supplemental Regulations," Section 30-313 "General Provisions" of the Code of Ordinances; providing for severability, codification, and an effective date.

Chairman Wick asked Development Services Director Jeff Bowman to present his explanation of the proposed Ordinance 2009-35 to the board.

Mr. Bowman started out with the background and said that on September 10, 2009 the Town Commission approved moving forward with the attached proposed amendments to the Unified Land Development Code. On October 27, 2009 the Town Commission passed a Resolution providing for the issuance of a Notice of Intent concerning pending amending to Chapter 30 of the Town's Code of Ordinances. As per Chapter 30 Section 531 (j) of the Town's Code of Ordinances, a copy of the Notice of Intent was provided to the board. On December 7, 2009, the Public Hearing and Town Commission approval of processing of proposed regulatory changes passed and those regulations are in front of the board. Mr. Bowman said that if you go to 2009-35 line 45 is where the amendments begin. Mr. Bowman explained that the strike throughs were deletions and the underlined text were added text. Mr. Bowman said that the Town has a pool ordinance that is proposed to be changed to allow pools in the front setbacks. So in line 45 "No swimming pool, hot tub or spa shall be constructed within a front yard setback" is stricken. Mr. Bowman noted the various stricken words and added text in the proposed ordinance.

Chairman Wick asked for board comments.

Ms. Furth directed her comment to Mr. Bowman and referred to line 53 and said that if the board is assuming the normal setbacks are 25 feet and every pool is required to have a 5 foot fence as a minimum, how close could the fence be built towards the swale line of the property since there were no delineations in the ordinance for that.

Mr. Bowman said that normal street right of ways were 50 feet, so if you go 25 feet from the center line of the road towards the property, that is normally where the property line would be; and the roadway is only 10 feet on that side – so you would have about a 15 foot swale area. On top of that, you would have another 10 feet abutting the public right of way. So the total setback would be 25 feet from the road or 35 feet from the center line of the road.

Ms. Furth commented that this ordinance also allows for pool enclosures in the front yard.

Mr. Bowman said that pool screened enclosures would be allowed in the front yard if the property owner elected not to put in a fence.

Ms. Furth asked Mr. Bowman if he knew why this was introduced in the first place.

Mr. Bowman said that he thought that this was brought up for discussion during public comments at a Town Commission hearing because there were some homes on corner lots that have a hardship because their front yards were bigger than their side yards and that there are some homes that have a pool in the front yard.

Ms. Furth said that this ordinance did not delineate for corner lots and it pertains to all residential properties. Ms. Furth further stated that if this ordinance was passed, it would allow for any property owner to build a pool or an enclosure in their front yard.

Mr. Bowman said that if the property owner had the space to do it, they could build a pool with an enclosure in the front yard.

Mr. Ritchie said that he was curious why this was enacted and said that he does not want this to be approved.

Mr. Bowman verified that the normal right of way was 50 feet and that the pool/enclosure could be put only on the property and could not encroach the swale area.

Chairman Wick made a clarification and said that front yard setbacks were a minimum of 25 feet and a maximum of 35 feet. So if this ordinance is changed, a property owner could have about a 20 to 30 foot pool in front of the house.

Mr. Bowman said that it would depend on where the house was situated on the lot. Mr. Bowman said that the minimum setback is 10 feet from the public right of way and the pool could not be put in that setback area.

Mr. Oldaker recalled that a resident came into one of the meetings to request a variance for a pool in the front yard and the variance was voted down and now this ordinance has been presented.

Mr. Bowman said that several property owners requested a variance because they had an existing pool in the front yard and the variances were granted. Mr. Bowman said that the variance that Mr. Oldaker is referring to was denied.

Mr. Oldaker said that the reason why the property owner needed to put the pool in the front yard was because the front door was on the widest part of the lot and most of these houses were built in a rectangle and were set back so that the back yard does not have enough space for a pool. Mr. Oldaker commented that there were only a handful of lots in Town that could take advantage of this ordinance and a lot of the homes in Town were built too close to the street to have a pool.

Ms. Furth commented again that this ordinance would allow anyone to choose to build a pool in the front yard and it would not just be for special properties.

Mr. Bowman said that the ordinance would include all residential properties in Town.

Chairman Wick asked if there was anyone at the hearing that would like to make a public comment. Since there were no public comments, Chairman Wick asked the board to make a motion and then further discussion of the motion would commence.

Mr. Oldaker made a motion, seconded by Ms. Furth to approve the proposed Ordinance 2009-35 prior to further discussion.

Mr. Furth asked Town Attorney White that if this ordinance was not on the books, someone could come in and request a variance based on their special circumstances.

Attorney White said that Ms. Furth was correct and commented that if this ordinance was not passed, the regulations would apply where you would be prohibited from putting a pool in the front yard. Like in the past, they would have to come before the Board of Adjustment for a variance to be reviewed on an individual basis.

Ms. Furth asked if the person that requested this, went through the variance process the first time around.

Attorney White said that he was aware that there was a recent variance similar to what this ordinance is trying to cure where the variance request was denied. Attorney White said that it was his understanding from staff that throughout the years there were several variances requested similar in scope to allow pools in the front yard. After the last variance request came through, that is when the Commission directed staff and the Town Attorney to draft this ordinance to bring forward to the Planning and Zoning Board.

Chairman Wick commented that he did not think that this ordinance was well drafted and thought that it would create more problems for most people because he thought you would have a spotty looking neighborhood. Chairman Wick said that people that have this type of situation, should take it to the Board of Adjustment for review.

Ms. Furth agreed with Chairman Wick's comments and thought this ordinance could present real problems and would detract from the neighborhood and the line of site.

Since there were no further comments from the board, Chairman Wick asked for a vote to the main motion to send Ordinance 2009-35 to the Town commission with the recommendation of the Planning and Zoning Board.

In a roll call vote, the motion failed 4 – 0. The motion to approve the Ordinance 2009-35 failed.

Chairman Wick asked Town Attorney James White to present the next proposed Ordinance 2009-10. Attorney White said that the next ordinance for consideration was an ordinance of the Town of Lauderdale-By-the-Sea, Florida, Amending Chapter 30 "Unified

Land Development Regulations," Article V "Zoning," Division 2 "Districts," Section 30-261 "B-1-A District-Business" in order to provide that community theatres and cultural centers are permitted uses in the B-1-A; further amending Section 30-271 "B-1 District-Business" in order to provide that community theatres and cultural centers are permitted uses in the B-1 District; providing for severability; providing for codification; and providing for an effective date.

Chairman Wick asked the board to present their comments to Mr. Bowman.

Mr. Ritchie said that he was curious why the Town was defining what constitutes a business in the Town of Lauderdale-By-The-Sea with this whole ordinance. Mr. Ritchie wanted to know why the ordinance was listed this way to define a business that would be allowable in Town.

Attorney White said that he could answer Mr. Ritchie's comments and gave an explanation of how the various zoning districts were structured. Based on how those zoning districts were structured, you would have a list of permitted uses which would denote and list all various types of businesses that would be allowed to exist and operate in that particular zoning district. This ordinance gives the Town a range of different uses that would be allowed in zoning districts B-1-A and B-1 and they pretty much mirror each other except that B-1 allows for few more uses than B-1-A. The ordinance is not necessarily defining what a business would be, it is merely telling you that these would be the types of businesses that would be allowed. So, as new uses come along and as businesses change characteristics, local governments would need to add to those lists or remove certain uses that become obsolete.

Ms. Furth asked Attorney White if this ordinance was implemented because there was a possible theatre that was coming into Town and there was concern about the request for off-site parking that would be needed for this type of business. Ms. Furth asked what the parking requirements would be for this type of business.

Attorney White said that this ordinance just sets up the use for the Town and said that the parking issue would be a concern. Attorney White said that if a business wanted to turn a particular building into a cultural center or a community theatre or build a new one, they would have to go through the proper planning approval process at which time the parking issue would be reviewed. Either they would have to seek a variance or they would have to have some type of parking agreement in order provide the necessary parking pursuant to the Town's Code. Attorney White said that there might be transportation or some type of traffic impacts that would have to be mitigated and also said that the Town has parking requirements for various uses and asked Mr. Bowman to comment further.

Mr. Bowman said that an office building would have different parking requirements as compared to a restaurant. Mr. Bowman said that for a theatre in some cases a traffic study would have to be done or parking could be leased from other areas. Mr. Bowman said that a good percentage of the Town is legal non-conforming and that there were provisions in the code to have parking agreements.

Ms. Furth commented that the board could then assume that parking would not be a problem if a theatre or cultural center were allowed.

Mr. Bowman said that he was not saying that, he was just stating that an existing business would have different parking requirements than a new type of business that would go into that location and they would have to obtain additional parking from somewhere.

Ms. Furth commented that there was no designation for parking in this ordinance and that would have to be another step that the Town would have to take.

Mr. Bowman said that there were provisions in the code that allows a business to have a lease agreement with individuals that have extra parking or lease space from the Town or from a lot.

Chairman Wick commented that you would find either in the County or in the Town Code that you would have to have a certain amount of parking depending on the type of business use. Also, the code states that if a business comes in to change the existing business use like a cultural center or theatre, they would have to do a traffic study to make sure they would not have a problem. Chairman Wick asked Mr. Bowman if that was correct.

Mr. Bowman commented that if a new use went into an existing building that requires more parking, the Town would require them to come up with the additional parking.

Chairman Wick asked if there was anyone at the hearing that would like to make a public comment regarding Ordinance 2009-10. Since there were no public comments, Chairman Wick asked the board to make a motion and then further discussion of the motion would commence.

Mr. Oldaker made a motion, seconded by Mr. Ritchie to pass this ordinance forward to the Town Commission. Since there was no further discussion from the board, Chairman Wick asked for roll call vote.

In a roll call vote, all voted in favor to send Ordinance 2009-10 to the Town Commission with the board's recommendation to pass the ordinance as presented. The motion carried 4 – 0.

V. OLD BUSINESS

There was no old business to be discussed by the board.

VI. UPDATES/BOARD MEMBER COMMENTS

There were no updates or board member comments.

VI. ADJOURNMENT

There being no further business to discuss, Chairman Wick adjourned the meeting at 7:05 P.M. December 16, 2009.

ATTEST:

Colleen Tyrrell, Board Secretary

Chairman Lawrence Wick

Date Accepted: _____

NOTICE OF CHANGE TO PERMITTED USES FOR BUSINESS ZONING DISTRICTS

THE TOWN OF LAUDERDALE-BY-THE-SEA
proposes to adopt the following ordinance:

ORDINANCE 2009-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT COMMUNITY THEATRES AND CULTURAL CENTERS ARE PERMITTED USES IN THE B-1-A DISTRICT; FURTHER AMENDING SECTION 30-271 "B-1 DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT COMMUNITY THEATRES AND CULTURAL CENTERS ARE PERMITTED USES IN THE B-1 DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

A public hearing on the first reading of the ordinance will be held on January 12, 2010. A public hearing on the second reading of the ordinance is scheduled to occur January 26, 2010. Both hearings will be at 7:00 p.m., or soon thereafter, at Jarvis Hall, 4505 Ocean Drive.

All interested parties may appear at said meeting and be heard with respect to the proposed ordinance. Copies of the proposed ordinance are available for inspection in the Town Clerk's Office located at 4501 Ocean Drive, Lauderdale-By-The-Sea during regular business hours.

The Town of Lauderdale-By-The-Sea will furnish appropriate auxiliary aids and services necessary to afford individuals an equal opportunity to participate in meetings of the Town Commission. In accordance with the Americans with Disabilities Act and Florida Statute 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact the Town Clerk no later than two (2) days prior to the meeting at (954) 776-0576 for assistance.

If any person decides to appeal any decision made by the Town Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings and for such purposes may need to insure that a verbatim recording of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

January 5, 2010
January 11, 2010